



City of Seattle
Edward B. Murray, Mayor

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3016333
Applicant Name: Jennifer Bailey Taylor for Kevin Conroy
Address of Proposal: 1300 N Northlake Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to change the use of a portion of an existing two story structure from non-household sales and service to 719 sq. ft. of food processing and craft work, 3672 sq. ft. of retail sales and service, and 7,032 sq. ft. of principal office use. (3,472 sq. ft. of non-household sales and service to remain.)

The following approvals are required:

Shoreline Substantial Development Permit: to change uses in a portion of a two story structure from non-household sales and service to 715 sq. ft. of food processing and craft work, and 3672 sq. ft. of retail sales and service, with 3,472 sq. ft. non-household sales and service to remain in the UM Shoreline Environment.

Shoreline Conditional Use: to enclose a 580 sq. ft. deck for office use and establish a total of 7,032 sq. ft. as principal office use in the interior of the building in the UM Shoreline Environment, pursuant to SMC 23.60.724

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition,
or involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The subject site is located at 1300 N. Northlake Way on the north shore of Lake Union. The property is zoned Industrial Commercial IC-45'. The site is an upland lot located in the Urban Maritime (UM) Shoreline Environment.

The existing building on the site is a 15,415-square-foot masonry structure consisting of two stories and a 580-square-foot deck. The building houses several uses including non-household sales and service and principal office.

Background

The existing structure was built in 1998 and permitted as a warehouse on the first level with accessory office use on the second level under permit #700949 and #701218. In 2008, under permit #6182708, the first level was changed to three distinct uses with the second level approved to continue as office without distinction as either accessory or principal use. This second level has operated as principal office use since that time without permit.

Description of Proposal

The applicant proposes modifications to the building, changing uses on the first level from non-household sales and service to 719 square feet of food processing and craft work, and 3,672 square feet of retail sales and service, with 3,472 square feet remaining as non-household sales and service. The proposal also includes enclosing a 580 square-foot second level deck resulting in a total of 7,032 square feet to be established as principal office use, a conditional use in the upland UM environment on the north shore of Lake Union.

Public Comment

Notice of application was issued on December 26, 2013. The public comment period ended on January 24, 2014. No comment letters were received for the project.

ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The applicant has requested a Shoreline Substantial Development approval for renovations to a commercial structure that will cost more than \$5,780. Therefore, the project does not qualify for an exemption from the requirements for a Shoreline Substantial Development Permit and a SSDP is required, per SMC 23.60.020.C.6.

SMC 23.60.030. Criteria for Substantial Development Permits.

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads:

A substantial development permit shall be issued only when the development proposed is consistent with:

1. The policies and procedures of Chapter 90.58 RCW;

2. The regulations of this Chapter; and
3. The provisions of Chapter 173-27WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and Shoreline Management Act.

1. POLICIES AND PROVISIONS OF CHAPTER 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State of Washington to provide for the management of all shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology acts in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle, as well as other local jurisdictions, adopted a local shoreline master program, which for the City, is codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

2. THE REGULATIONS OF THIS CHAPTER, SMC 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030. The proposal shall meet the criteria for development standards in the applicable shoreline overlay zone(s) and any additional requests (shoreline conditional use, shoreline variance, etc.).

The proposal is also required to be consistent with the shoreline policies established in the Land Use Element of Seattle's Comprehensive Plan (SMC 23.60.004), and the purpose and location criteria for the applicable shoreline environments (SMC 23.60.220). Further, Section 23.60.014 C of the Seattle Shoreline Master Program states that "standards applicable to environmentally critical areas as provided in Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas, shall apply in the Shoreline District". If there are any conflicts between the Seattle Shoreline Master Program and Seattle Municipal Code Chapter 25.09, the most restrictive requirements shall apply."

Shoreline Policies (SMC 23.60.004):

The Shoreline Goals and Policies are part of the Land Use Element of Seattle's Comprehensive Plan. The Shoreline Goals and Policies and the purpose and location criteria for each shoreline environment designation contained in SMC Section 23.60.220 shall be considered in making all discretionary decisions in the Shoreline District and in making discretionary decisions on lands adjacent to the shoreline where the intent of the Land Use Code is a criterion and the proposal may have an adverse impact on the Shoreline District. They shall also be considered by the Director in the promulgation of rules and interpretation decisions. The Shoreline Goals and Policies do not constitute regulations and shall not be the basis for enforcement actions.

Purpose and Location Criteria (SMC 23.60.220):

The subject property is located in an Urban Maritime (UM) shoreline environment.

The purpose of the UM shoreline environment is to “preserve areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets.”

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels.
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.

- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed, the project complies with the above shoreline development standards. As the project is located on an upland site, the short-term construction related activities should have no effects on migratory fish routes.

SMC 23.60.750 – Development standards for the UM Environment

The proposal conforms to all of the applicable development standards for the UM environment, except that the second level of the existing structure, which has been operating as principal use office without permit, requires conditional use approval as addressed below.

ANALYSIS - SHORELINE CONDITIONAL USE

The establishment of principal use office in the UM Shoreline Environment may be authorized by a shoreline conditional use pursuant to SMC 23.60.724.A. Therefore, the proposal is evaluated in light of the shoreline conditional use criteria in WAC 173-27-160 and the provisions of SMC 23.60.724 A. The overall purpose of a conditional use permit is to provide for flexibility in the application of use regulations consistent with the policies of the Shoreline Management Act (RCW 90.58.020).

SMC 23.60.034 Criteria for Shoreline Conditional Use Approvals.

Uses or developments which are identified in this chapter as requiring shoreline conditional use approval, and other uses which, although not expressly mentioned in lists of permitted uses, are permitted in the underlying zones and are not prohibited in the Shoreline District, may be approved, approved with conditions or denied by the Director in specific cases based on the criteria in WAC 173-27-160, as now constituted or hereafter amended, and any additional criteria given in this chapter. Upon transmittal of the Director's approval to the Department of Ecology (DOE), the permit may be approved, approved with conditions or denied by DOE. (Ord. [118793](#) Section 6, 1997; Ord. 113466 Section 2(part), 1987)

WAC 173-27-160 Review Criteria for Conditional Use Permits

The purpose of a conditional use permit is to provide a system within the master program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW [90.58.020](#). In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

- (1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - (a) *That the proposed use is consistent with the policies of RCW [90.58.020](#) and the master program;*

The policies of RCW 90.58.020 and the Seattle Shoreline Master Program favor enhancement of the shoreline environment, fostering of water-dependent uses and shoreline public access and recreation, and protecting views of the water. The proposal is located in the interior of an existing structure located on an upland lot in the UM Environment. The proposal neither enhances nor harms the overall purpose of the master program. Views of the water would not be affected as the exterior of the structure will not change. The principal office use is consistent with those policies.

- (b) *That the proposed use will not interfere with the normal public use of public shorelines;*

The proposal is located on an upland lot in the UM Environment. The proposed principal office use is located entirely within an existing structure with no direct contact with the public shoreline. Therefore, the proposed use will not interfere with normal public use of public shorelines.

- (c) *That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;*

The proposed principal office use is located within a structure that was constructed in 1998. The office use was originally approved as accessory to a warehouse use when the building was constructed in 1998. When the principal warehouse use was changed to other uses in 2008 by permit, the office use continued without permit. Principal office use is a permitted use in the underlying IC-45 zone.

- (d) *That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and*

As mentioned above, the proposed principal office was permitted as accessory office since the structure was constructed by permit in 1998. Best Management Practices for the enclosure of the second story deck will be employed to protect the aquatic environment. No adverse effects to the UM shoreline environment are anticipated.

- (e) *That the public interest suffers no substantial detrimental effect.*

As conditioned, the public interest would suffer no substantial detrimental effect from the continued principal office use at this site.

- (2) *In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce substantial adverse effects to the shoreline environment.*

In reviewing the proposal and development in the area, including an analysis of adjacent and nearby properties supplied by the applicant, it appears that few if any similar situations exist in the UM Environment that do not already contain a structure with an existing light industrial use. The adjacent Urban Stable environment to the west permits ground-floor office uses. Granting of the conditional use permit should not produce a substantial adverse effect to the shoreline environment, nor should it lead to substantial cumulative impacts.

- (3) *Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.*

The master program allows principal office use in the UM Shoreline Environment as a conditional use if the criteria in WAC 173-27-160 are satisfied (see above) and the existing principal office use meets criteria in SMC 23.60.724 A (1 and 2). The second floor office use will not be located where it is likely to conflict with manufacturing uses because of dust or noise or other environmental factors, or parking and loading access needs or other safety factors; and the office use is to be located on an upland lot that is not suited for a water-dependent or water-related manufacturing use, or for a permitted water-dependent commercial because of its location.

(4) *Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.*

The master program does not prohibit a “principal office” use, as explained above.

DECISION – SHORELINE CONDITIONAL USE

The Shoreline Conditional Use application for establishment of a recreational marina use in the UM Environment is **CONDITIONALLY APPROVED.**

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program. The specific standards for development in the shoreline environments will be met by the proposed development.

Pursuant to the Director’s authority under Seattle’s Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is approved with the conditions listed below.

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT, SHORELINE CONDITIONAL USE

During Construction

1. Best Management Practices shall be followed to minimize the risk of toxic materials, petrochemicals and other pollutants from entering surface water during construction.

For the Life of the Project

2. Best Management Practices for operation of building at this location as shown on plan set sheet BMP-1 shall be followed.

Signature: _____ (signature on file) Date: March 6, 2014

Marti Stave, Senior Land Use Planner
Department of Planning and Development